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IN THE SUPREME COURT
STATE OF ARIZONA

In the Matter of:)	
)	
PETITION TO AMEND)	
APPENDIX A OF THE RULES)	Supreme Court No. R-13-_____
OF PROCEDURE FOR)	(Expedited Adoption Requested)
EVICITION ACTIONS)	
_____)	

Pursuant to Rule 28 of the Rules of the Arizona Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to adopt the proposed amendment to Appendix A of the Rules of Procedure for Eviction Actions, to address recent amendments to A.R.S. §§ 33-1322 and -1432 relating to rental agreements. The text of the proposed amendment is set out in the accompanying Exhibit A.

I. Background and Purpose of the Proposed Rule Amendment. Senate Bill 1062 was passed and signed into law in the Second Regular Session of the Fiftieth Legislature (Laws 2012, Ch. 82). The bill's effective date is January 1, 2013.

The bill requires that a copy of the Arizona Residential Landlord and Tenant Act and the Arizona Mobile Home Parks Residential Landlord and Tenant Act be made available to the public on the Arizona Department of Housing's website; previously, these publications were required to be posted to the Arizona Secretary of State's website.

Rule 5(a)(5) of the Rules of Procedure for Eviction Actions requires plaintiff to serve on a residential tenant a copy of the "Residential Eviction Procedures Information Sheet" appearing in Appendix A of the Rules. The Information Sheet directs tenants to the Secretary of State's website for copies of the above-referenced legislation and for a copy of the Long Term Recreational Vehicle Rental Space Act, which is not available at either of the Department of Housing or the Secretary of State website. Additionally, the web address for the Maricopa County Justice Courts is no longer a valid web address.

Petitioner's amendment will remove the outdated references and substitute a reference to the Evictions and Small Claims web page on the website for the Arizona Judicial Branch. Updated information can then be made available to the public by linking to the appropriate state entity, court website, or attorney referral organization.

II. Pre-Petition Comments. The petition has not been circulated for pre-petition comments due to the technical nature of the proposed amendment.

III. Effective Date of the Proposed Rule Amendment. The changes made by the underlying statutory amendments became effective on January 1, 2013. Petitioner therefore requests adoption of the amended Appendix A with a formal comment period to follow, as permitted by Supreme Court Rule 28(G).

RESPECTFULLY SUBMITTED this _____ day of _____ 2013.

By _____
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Exhibit A

(language to be removed is shown in ~~strike through~~, new language is underlined)

APPENDIX A RESIDENTIAL EVICTION INFORMATION SHEET (PUBLICATION AND DISTRIBUTION REQUIRED BY THE ARIZONA SUPREME COURT)

Notice. A landlord must provide a tenant with written notice saying why the eviction process has started. The tenant should have received this notice before this lawsuit was filed or with the summons.

Rent cases. If this lawsuit has been filed for not paying rent, the tenant can stop it and continue living in the residence by paying all rent now due, late fees, attorney's fees and court costs. After a judgment has been granted, reinstatement of the lease is solely in the landlord's discretion. Inability to pay rent is not a legal defense and the judge cannot give more time to pay, even if the tenant is having financial problems.

Before Court. Eviction cases move through the court system very quickly. If the tenant disagrees with the landlord's allegations, the tenant is encouraged to file a written answer. The answer form available from the justice court allows the tenant to admit or deny the allegations and explain his or her position. If the tenant cannot afford to pay the answer fee, he or she may apply for a waiver or deferral of that fee. If a tenant believes that the landlord owes him or her money, the tenant may under some circumstances file a counterclaim. The summons states that a trial will occur on the date listed, but due to the high volume of cases, a trial may not occur then. If the tenant fails to appear, and the landlord or his attorney is present, a judgment will probably be entered against the tenant. Tenants can represent themselves or arrange for lawyers to represent them. The court will not provide a lawyer.

At Court. At the time and date listed on the summons, the judge will start calling cases. If both parties are present, the judge will ask the tenant whether the complaint is true. If the tenant says "no", he or she will need to briefly tell the judge why. If the reason is a legal defense, the judge will need to hear testimony from both sides and make a decision after a trial. After talking to the landlord or its attorney, a tenant may wish to agree to what the landlord is requesting by signing a "stipulation". A stipulation is an agreement under which the parties resolve the dispute on the basis of what the agreement says. Only matters contained in the written agreement can be enforced. These agreements should be clear and understandable by both parties. Most stipulations include judgments against tenants.

Continuances. Either party may ask that the court date be delayed. The court will agree only if there is a very good reason. A delay will be no more than three business days. There is no assurance a delay will be granted and parties should come to court prepared for trial and bring necessary witnesses and documents.

After a Judgment. If a landlord receives a judgment, it may apply for a writ of restitution to remove the tenant(s) and all occupants. Writs of Restitution are served by constables, who will direct the residents to leave. A tenant may avoid the difficulties associated with a writ of restitution by vacating the property and returning the keys to the landlord. This ends the tenants' possession of the residence. A tenant will have five (5) days to vacate the premises unless the

court has found a material and irreparable breach of the lease by the tenant, in which case the tenant has only twelve (12) to twenty-four (24) hours to vacate. A judgment will probably appear on a tenant's credit report for several years. Parties wishing to appeal from a judgment have five days to do so after the judgment is entered and can obtain forms and information from the court filing counter. If a tenant wants to remain in the rental home during the appeal, the tenant must also pay an appropriate bond and continue to pay rent into court as it becomes due. If the tenant prevails the court will dismiss the case. Absent an appeal, the tenant will need to obtain the landlord's approval and enter a new lease to continue living in the residence.

Sources of Additional Information. You can get copies of the Arizona Residential Landlord Tenant Act, the Arizona Mobile Home Parks Residential Landlord and Tenant Act and the Long Term Recreational Vehicle Rental Space Act from a library or from ~~the Secretary of State's office or web page; www.azsos.gov links on the Arizona Judicial Branch Evictions and Small Claims web page, www.azcourts.gov/PublicServices/CivilLaw/EvictionsSmallClaims.aspx.~~ ~~In Maricopa County~~ If you wish to consult an attorney, you may want to contact the Arizona State Bar Attorney Referrals Line at (602) 257-4434 or Community Legal Services at (602) 258-3434. Contact the court in other counties for similar referrals. ~~You can obtain a summary of the obligations of landlords and tenants on the web page for justice courts in Maricopa County: www.superiortcourt.maricopa.gov/justicecourts/info.~~